IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

R.S.A. No. 1686 of 2004 (O&M)
Date of Decision : 19.11.2007

Tarsem Singh & Ors.

.....Appellants

Versus

Gurdip Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.J.S. Chahal, Advocate
for the appellants.

Mr. Gurcharan Singh, Advocate
for the respondent.

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VINOD K. SHARMA, J. (ORAL)

This regular second appeal has been filed against the judgments and decrees passed by the learned Courts below vide which suit filed by the plaintiff for declaration that he had share in the suit property and was in joint possession on the basis of inheritance from Joginder Singh, has been ordered to be decreed.

The plaintiff respondent claimed that he being son of Joginder Singh was entitled to share in the property being coparcener as the property was ancestral in the hands of Joginder Singh and he had no right to execute the will in favour of his wife and that the subsequent will by Charan Kaur in favour of defendants had no effect on the rights of the plaintiff respondent to claim share in the ancestral property.

The learned Courts below on appreciation of evidence have recorded a concurrent finding of fact that the property in the hands of

Joginder Singh was ancestral and he had no right to will away the same in favour of Smt. Charan Kaur, his wife and consequently, decreed the suit filed by the plaintiff respondent.

The learned counsel appearing on behalf of the appellants has challenged the findings recorded by the learned Courts below on the plea that the share granted to plaintiff respondent cannot be sustained in view of the amended Act vide which the daughters have also been given right in the coparcenary property under the Hindu Law and, therefore, they would have right in the ancestral coparcenary property. The learned counsel for the appellants has not been able to prove that the said Act has retrospective operation so as to enable the daughters to claim share in ancestral coparcenary property as contended by him. It may further be noticed that no such plea was raised before the learned Courts below and, therefore, it is not open to the appellants to raise this plea in regular second appeal for the first time.

No question of law muchless substantial question of law arises for consideration in this regular second appeal.

Dismissed.

19.11.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**